

**Town of Milton
Planning and Zoning Commission
Minutes
November 21, 2006**

Members Present:	Linda Rogers	Ginny Weeks	Carol Bruce
	Michael Filicko	Richard Greig	Dean Sherman
	Gene Steele	Louise Frey	

Others Present:	Robin Davis	John Brady	Bob Kerr
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Linda Rogers called the meeting to order.

Public Hearing

1. James & Nancy White would like to rezone their property from R1/R3 zone to R1/R3 with a LPD (Large Parcel Development Overlay), for the preliminary approval of a LPD (Large Parcel Master Plan). The property is located on Atlantic Ave further identified by Sussex County Tax Map 2-35-14.00-132.00, 132.10, 132.02, 132.03.

Linda Rogers: Is anyone present for the applicant?

Pret Dyer: I along with Blake Thompson and Joe Reed are members of Chestnut Property LLC, the applicant. This 25-acre parcel was annexed as R3, a 37.04 acre parcel was annexed as R1, and 14.01 acres was in town as R1. The original agreement was to not exceed 370 units; we are seeking to spread those units among the three parcels and we are submitting a master plan tonight as a preliminary. Mr. Dave Eager is from Townscapes Designs LLC and he will be discussing the design.

Dave Eager: I'll give you a brief presentation on the vision of the property. We would like to orient the site to the river. The central road will lead you to the water, and the river will be open to the public, with public amenities, such as a restaurant and a clubhouse. Pointed out the general location of single-family, semi-detached, and condominiums on the plan. There is a series of open space on the plan, a pedestrian walkway to The Preserve on the Broadkill, a community park that is centrally located, general open space, a walking trail along the waters edge and the open space for the ball field. Mr. Eager explained how this development meets the requirements in Article 4.8.16 (Basis for Approval of Alternative Development Standards 1-8) in the zoning ordinance. Is there any questions?

Michael Filicko: Will the open space be maintained by the community?

Dave Eager: Yes, with a public access easement for the walkway.

Richard Greig: What do you mean open to the public?

Dave Eager: This property will be maintained by the HOA (Home Owners Association), but the walkway will have public access. The parking lot around the brick kiln, the public will not be excluded.

Richard Greig: You mentioned park areas, is the community going to be separate from the general public of the Town of Milton?

Dave Eager: No, it will not. There is a HOA that will maintain it but the streets will be public streets. This is not a gated community.

Ginny Weeks: What will be the visual impact of this on the park, as we go up Front Street?

Dave Eager: There is a small community of 20 single-family homes called the Preserve on the Broadkill that is between the park and this property. From the marina, you will see the community.

Mark Davidson, of D.C Group: The overall storm water concept is utilizing the sites open space for water quality purposes. With the tidal outfall into the Broadkill River, we will be able to seek a water-quantity waiver through the State of Delaware; however we are responsible for water quality. The storm water will utilize the open space in a type of bio-filtration, while trying to keep most of the water on-site. The packets describe the mechanical system, which has been approved by the State of Delaware. At this time the Indian River watershed is first on getting a pollution control strategy approved. The management we will be using through the conservation design, we will reduce the nitrogen and phosphorous load that is currently present on site. The wetlands delineation has been submitted to the U.S. Army Corp. of Engineers. The boundary for this project runs along the mean high water line of the Broadkill River which is the State Wetlands, so there isn't any State Wetlands on the site at this time. We also did a traffic impact study was performed and submitted to DelDot for their review. Two entrances are being proposed at this time on Atlantic Ave, the study showed that there will be no adverse impact of the intersections. Chestnut Properties has agreed to DelDot, to do a two-inch asphalt overlay along Country Road. All construction traffic will enter in through Country Road. On the site plan, we have shown a preliminary layout of the water distribution system. We are looking at tying into two different locations on Atlantic Ave. This will be a looped system. We've looking into the sanitary sewer system. The front portion of the property will be able to gravity into the existing manholes, at both entrances on Atlantic Ave, the rest of the project will gravity flow to a pump station in the south-west corner of the site. Is there any questions?

Michael Filicko: Would that pump station be affected during a severe storm?

Mark Davidson: The site for the pump station is out of the 100 year flood plain. No flooding should occur.

Michael Filicko: Can fertilization from lawns get washed into the Broadkill River?

Mark Davidson: To meet state standards, we have to control the run off on site prior to discharge. All the lawns and open space will be directed to the storm water treatment system first.

Carol Bruce: Who in your group went out to evaluate and define the wetlands?

Mark Davidson: It was Kenneth Readinger. He delineated the wetlands and my surveyors located them.

Carol Bruce: What percentages of the wetland areas are forested?

Mark Davidson: Most of the wetland is forested, but I don't know the percentage.

Ginny Weeks: Will any trees be cut down?

Mark Davidson: The only trees maintained would be for safety issues.

Michael Filicko: In the non-wetland areas are there old growth trees on the home sites? Will they be clear-cut, or anything done to preserve those trees?

Mark Davidson: Most of the trees along the river are staying intact. There will not be a disturbance in the existing trees, except for where the roads and buildings will be located. We are planting 800 trees along the streets.

Pret Dyer: At this time I would like to turn to your requirements in Article 4.0.7 under master plan submission. The number of dwelling units is 370 units, 104 detached single-family homes, 176 multi-family homes, and 90 semi-detached. The plan shows an area along Atlantic Ave, it is an additional property we acquired and would like to have it annexed, for 3 additional units. The total required parking is 873 units excluding the restaurant parking spaces. We are providing 1,284 off street spaces, and 380 on-street spaces. An additional 380 will be allocated for visitors, owners, restaurant, and clubhouse. The accessory building has a 5' rear setback and 3' side setback. The height restriction is 40' across the board. The minimum lot areas are 5000, 3000 for the semi detached and all of the multi family will be located within a condominium reshime. The minimum lot width of 40' & 30' for the semi detached and not apply to the condominiums and the minimum lot depth of 110 & 70. The front setback would be 10' across the board and the same design standards as those in Cannery Village, with the porches at 5'. The side setbacks would be 5' and the rear at 5'.

Carol Bruce: Is 40' the maximum building height in town?

Linda Rogers: Yes.

Carol Bruce: Which dwellings would be that tall?

Pret Dyer: We don't have specific buildings designed at this point.

Ginny Weeks: Isn't 30.5' the maximum building height in R-1?

Pret Dyer: If you look in the first section of the LPD, you are allowed to apply different standards under the LPD.

Ginny Weeks would like to see a list of things the applicant is requesting that would deviate from the standard. Mr. Dyer would supply information.

Pret Dyer: The proposed landscaping is similar to the plan used in Cannery Village. We have agreed to plant 800 street trees within the community, donate another 200 trees to be planted at the discretion of the town and donate \$10.00 per tree towards the cost of installation. The proposed sidewalks are shown as the typical road section under sheet S10. The street lighting would conform to your standards. Photo cell lighting will be installed in the alleyways and hooked up to the property owner's electrical system. The streets will be dedicated to the Town; the alleys will be maintained by the HOA, according to the annexation agreement. The signage in exhibit A is consistent with the street signage in Cannery Village. The park in this community is supported by the HOA. Button Alley is designed for pedestrian access to The Preserve on the Broadkill Phase II. The clubhouse with an outdoor pool will be available to the public for a fee. From the 404 wetland line to the river there will be no disturbance of any of those trees. We will be keeping the trees which are part of a larger area of forestation. Mr. Davidson attended the PLUS meeting today and the Dept. of Agriculture was very much in support because of the buffering that existed and no impact along the river front. Trash receptacles will be located in the rear alleys and maintained by the Homeowners Association. We are

proposing 4 phases of approximately 92 units each. There is modification of the setback requirements and they are constant with Cannery Village. It is my understanding of the LPD that allows you to incorporate the R-3 standards throughout the LPD. So as to the height, there would be a 40' applied throughout the property.

Ginny Weeks: I would like the sighting for that.

John Brady: Article 4.8.7 Paragraph 2 – The minimum lot and yard requirements and maximum height requirements of the zoning district in which the LPD is located need not apply except that the Town shall ensure an appropriate relationship between proposed land uses and existing land uses near the boundaries of the proposed LPD district. What is the current zoning is in part 1 & 3. What they are asking is that the requirements for 3 be consistent through the project, which can be permitted under the LPD definition.

Ginny Weeks: Do we or the Town Council have to give that permission specifically?

John Brady: It as part of the approval process in the LPD, it has to be an articulated fact.

Ginny Weeks: Thank you. That's why I'm asking for a list. Thank you.

Pret Dyer: The plan is consistent with your comprehensive plan. The project is Level 2, of the State Strategies for Spending. We have done an intentional variation in the types of housing to meet with the Town's code.

Ginny Weeks: The walkway around the property is open to the public?

Pret Dyer: Yes.

Ginny Weeks: Will the easement be deeded to the public for that?

Pret Dyer: There can be an easement, so I said before, we're providing this access point but their still lacking that one property for connectivity.

Ginny Weeks: But up around the kiln and along the river, you'll put some sort of form together.

Bob Kerr: The walkway and all of the open area is available to the community and the town.

Richard Greig: I'm concerned that this is going to be a separate river walk on the broadkill over there by itself. Lets start back with the storm water treatment, you made some comment about a treatment plant. Can you explain how that works.

Mark Davidson: We will have a pump station for the wastewater, and a mechanical storm water treatment system that will take care of the excess quality runoff that we have to maintain on this site as per the State of Delaware regulations. Storm water quantity is waived because if the tidal outfall into the river but we have to be able to treat the first 1" of runoff over the entire site prior to discharging into the Broadkill River. So we are going to do that through different types of best management practices. One being a conservation type design utilizing some of the open space, landscaping that we are going to be providing for this project, as well as a doing a mechanical type system, it's an underground system that all the storm water will concentrate to. It's a piping system underground that's set on top of a bed of stone, it will infiltrate through the stone into a under drain pipe which will meet the requirements for water quality for the State of Delaware and it will be discharged out into the Broadkill.

Richard Greig: For the HOA you mentioned trash collection, alley way, preservation and parks. What if HOA doesn't emerge?

Pret Dyer: It is maintained by the developer, until it is turned over to the HOA. It is mandatory membership, and the fees are collected at settlement.

Gene Steele: In reference to open to the general public, could it be added into your documents or your covenants that that will always remain that way and the Homeowners Association can't arbitrarily say that we don't want the general public to have access to this area.

Pret Dyer: That's fine. We absolutely can do that.

Ginny Weeks: Do the alleys need to meet Milton's standards?

Bob Kerr: Yes.

Ginny Weeks: I'm just concerned that the fire trucks and if there is enough space back there.

Bob Kerr: I would like to say yes but I not sure that this drawing does allow access for fire on the alleys. Cannery Village also has some areas that may not.

Pret Dyer: The project will have to have approval from the Fire Marshall.

Carol Bruce: I was a little more comfortable with the plans as they were originally presented and some of the stuff in here is making me nervous. One is the 40' maximum height, I've never seen a duplex home that was 40' tall. Why would you like the Large Parcel Overlay put on you original?

Pret Dyer: It was a premise when we were annexed that we would apply for LPD to spread the 370 units among the three parcels.

Michael Filicko: Why does the land need to be clear cut where there are existing trees?

Pret Dyer: In our construction experience, when we try to do select clearing, the remaining trees die and fall on the house. The Dept. of Agriculture endorsed these plans; they believe it is more important to have that as a non fragmented bulk quality forested area which you see in the green as opposed to just a select tree here and there, which kind of gets lost. So when you do 370 units which is a very low density, there has to be on a parcel of 76 acres, there has to be some cutting of the trees. Otherwise we can do high rise Sea Colony units and put them here but I don't think that will be constant with the look of the town.

Joe Reed: 50% of the site is wooded and it is going to be retained.

Pret Dyer: When you look at the concept plan, what we changed from the concept plan, is we took the road and so of those units out of here to accommodate the trees.

Ginny Weeks: You mentioned two types of wetlands, 404 and Section 10, can you explain the different?

Pret Dyer: 404 is under the clean water act, and 404 wetlands are regulated by the federal government. We do have 404 wetlands all along the frontage of the property. Section 10 is state regulated wetlands, which is of a tidal wetland. The property line tracks the section 10 wetland line. So we don't have section 10 wetlands on the property.

Linda Rogers: Does anyone have any questions?

Bet Orr: (Mill St) One concern is the cutting down of the trees. Many new developments include trees 7-8' but the width is too small. It isn't much more expensive to get a wider tree to start with.

Bob Blaney: (210 Chandler St.) I recall on your original concept plan, more of a buffer between Preserve on the Broadkill, and your new neighborhood. The backyard setbacks are 5', and that comes to our property line. Are you planning to have a buffer there?

Number 2, you show this ripple, are existing trees, along this border between Preserve on the Broadkill and your new neighborhood. Are those existing trees or are they going to be planted?

Pret Dyer: I think that is an existing tree line. We can have the standard setback on those single family lots.

Bob Blaney: Are these homes custom built or will there be modular homes?

Pret Dyer: We don't know yet.

Bob Blaney: Will you have covenants and restrictions in the HOA?

Pret Dyer: It is required.

Marion Jones: (Behringer Ave): If the board will allow, as I understand storm run off to be discharged into the Broadkill under any circumstances just because the property butts up to the Broadkill. If it did not, would you not be responsible to take care of the water in other ways?

Mark Davidson: At present, the majority of the site drains towards the Broadkill. We can not increase the run off. We have to be able to discharge our post development run off on the site at the pre-development rate. So whatever rate in which this site is currently running into the Broadkill River, I can not increase that. I have to be able to hold that on site and discharge it at that pre development rate.

Pret Dyer: We have at one of our shopping centers, the first storm water treatment systems in the State of Delaware. When the water comes out of there because there are different oils and things of that nature that get into the storm water system, when it comes out of the treatment system, it is of drinking water quality. There are two issues with storm water. One is quantity, like how you deal with how much. At any site under the storm water management regulations require that you not exceed the pre development rate. So whatever is discharging from that site prior to development, prior to increase in the impervious area, you are not allowed to exceed that. But the real question is not the discharge, it's the quality of the discharge. So we're going one step further to have the storm water treated, so when there is an ultimate discharge of that water, it has been treated to drinking water quality.

Marion Jones: If the Broadkill were not there, you would have to found other means to do that excess. Is that correct?

Pret Dyer: It would still be under the same issue of the pre development rate.

Ginny Weeks: How does one define the pre-development rate?

Mark Davidson: It's a series of calculations, it's a formula that is, compiles the documentation that we come up with the pre development rate.

Ginny Weeks: Will the Homeowners Association be responsible for the plant that purifies the water?

Mark Davidson: That is correct, yes. They will contract through a storm water management.

Ginny Weeks: That will not fall to the Town of Milton?

Mark Davidson: No, it is the HOA responsibility.

Bob Kerr: Pret, didn't you say you would be asking for a waiver in quantity?

Pret Dyer: Quantity.

Bob Kerr: But you just said that you can't exceed post, pre development.

Mark Davidson: We are not going to exceed it in quality.

Bob Kerr: No, no you said quantity.

Mark Davidson: In the state regulation when you have a tidal outfall, you can get a waiver in the amount.

Pret Dyer: What we are proposing meets the proposed regulations; we're not designing

this to a more lax standard. Storm water is regulated through Dept. of Natural Resources, delegated through the Sussex Conservation District. We have to meet the state standards for the TMDL (Total Maximum Daily Loads).

Bob Howard (217 Chandler): Just wanted to know if there will be a difference in the drainage.

Pret Dyer: We won't increase in any magnitude.

Linda Rogers: Any other questions?

Bob Blayney: So, you said that the buffers along the lots bordering the Preserve of the Broadkill will have the standard 8' setbacks.

Pret Dyer: Yes.

Richard Greig: Mr. Dyer has mentioned several things that are going to happen or will happen, for instance the question about the setback. Is anyone from the Town of Milton going to inquire as to if these things are done or not?

Linda Rogers: It will have to be noted before we get a final.

Michael Filicko: Mr. Dyer, I don't see why you can't hire an architectural landscaper and save select groups of old trees on those lots.

Pret Dyer: The trees along the river and next to Mr. Wells's property will be preserved. If we have the opportunity to save a tree, we will. They won't tolerate exposure or cover, which is the problem.

Linda Rogers: Closed public hearing on this application.

2. The application of Chestnut Properties for preliminary site plan approval of Cannery Village Phase 2C and revising the approved site plan for Cannery Village phase 2B. The property is identified by Sussex County Tax Map 2-35-20.00-57.00.

Linda Rogers: Is there anyone present on behalf of this application?

Mike Coban: Engineer for the project. For phase 2B, we would like to revise the alignment of Furham Road, to remove the curve and add an intersection. There was one way traffic circulation that was done away with and all of the roads are two way now. There were originally 5 buildings -10 units, now there are 4 duplex units and a single there. There will be some minor utility changes. We are asking for approval of all this under Phase 2C. There are some things here different than what you saw originally.

Ginny Weeks: These townhouses were approved in the concept plan, correct?

Mike Kobin: Yes.

Ginny Weeks: But they are part of 2C.

Mike Coban: They would have been part of 2C, yes.

Ginny Weeks: Would have been. Are they or are they not part of 2C?

Mike Kobin: They don't existing anymore. They've been replaced with a different type of unit.

Linda Rogers: We approved phases A, B, C which were approved with one way streets, it was approved with dwelling units and their changing everything. This is an LPD, how do we go about doing that when they've already been approved to have one certain type of housing, one certain type of street and now their coming in making this part of another phase but their changing what we've already approved and that changes some of the master plan.

Ginny Weeks: Not only that, it changes the amount of dwelling units.

Linda Rogers: The dwelling units are for the whole parcel so they can shift around on the parcel but they just can't exceed a certain number. My concern is that we already approved it one certain way and you'll come saying we don't want this, we're going to change something else and they've got a master plan. When they get a LPD of 538 units can be placed on the parcel any way they like, single family, multi family, duplex, whatever but this part of a phase was approved and recorded, I assume. They changed part of an original, which we need to clarify. That's completely changed the master plan and everything. Is it considered a substantial enough change for us to be able to just review like this?

Mike Kobin: It's basically a roadway change and a reconfiguration of two of the lots.

Bob Kerr: They have not increase the number of units. They are allowed, I believe, 538 and there are still 538 units.

Ginny Weeks: Can they build out the commercial before they complete those units?

Bob Kerr: Yes. They are allowed 10.8 acres of commercial. So they haven't changed the basic concept of what was the number of lots. One easy way to look at this is to take it in pieces. They are asking for a change in the alignment of a road. Down in the area of the clubhouse, their making it a better alignment of the road, I didn't like the one way portion of the street before, it came in at a strange angle. Now it comes in at a much, a 90 degree angle, which is what you try to do with roadways so you don't have people making weird turns and go back the other direction. That is simply a change in the alignment of a street. That happens quite frequently during the course of a sub division that is done in multiple phases. Another issue, staying in the 2B, they had 10 or 11 four plex townhouse units in the upper part.

Ginny Weeks: That's my confusion. Now he says that is 2C.

Bob Kerr: That actually was part of 2B. That part was approved for 11 four plexes.

Mike Kobin: They were always shown on the plan but I think they were ghosted on the plan, if I'm not mistaken.

Bob Kerr: The one that I'm looking at that says Phase 2A, 2B approved plan doesn't show them ghosted in. I believe they were part of it. Putting in a condominium building of this size, is something that wasn't shown on the original master plan. A four plex was the largest unit. One of the features about that was that it looked much like the Victorian houses within the town, so these are much larger buildings. Whether that is a substantial change to the master plan, it's a time for (looking at town solicitor).

Mike Kobin: I would point out that in the original approval way back, there were 96 apartments.

Ginny Weeks: Am I mistaken in believing that in the multi family that's gone from townhouses to condominiums and there are 60 condominiums (2 ½ per dwelling unit) is required 150 parking spaces.

Bob Kerr: Something in that number, yes.

Ginny Weeks: There are only 60 shown. That's why I'm concerned.

John Brady: Under 4.88 there was a master plan approval and this is an amendment to a master plan. I believe there should be a public meeting.

Linda Rogers: In order to change the master plan we must have a public hearing, so we have to let him present the changes.

Mike Coban: The condominium units are a mix of between 12-18 buildings, it's called an Hampton Court.

Bob Kerr: This property is zoned R1/LPD, and light industrial/LPD. There is no R3 on this property.

Mike Kobin: Showed location of condo units, clubhouse (was ghosted in on original plan), u shaped single story commercial complex and a three story with the first story commercial and the other two stories office. We talked about the realignment of the roadway. There is also a realignment of an alley. None of the proposed work would have any impact on the existing storm water management approvals. This will bring the total up to 538. There is still a commercial parcel that is known as 3B which you will see later on.

Linda Rogers: The parcel that you are referring to, is that on 88? That's the commercial part?

Mike Coban: Right. We have a total of 84 condo units and 16 duplexes and single family.

Joe Reed: The plans have been submitted to the town of Milton for the clubhouse. The first level is the lobby. There are men's and women's locker room. There is a fitness center in the center behind the lobby area. There is an elevator and there are stairs that go to the second floor and a balcony that wraps all the way around the building. The second floor is a mainly a large gathering room, office and small kitchen.

Louise Frey: How many parking spaces are you designated for the clubhouse?

Joe Reed: We have a parking lot and parallel parking spaces.

Louise Frey: How many is that?

Joe Reed: I'm sorry, I don't have that.

Linda Rogers: So your intentions are to utilize the larger parking lot for any events that are going to happen, are you not going to have events?

Joe Reed: Yes, I don't know. When homeowners do have events there and the parking on the street isn't sufficient, yes they will park here and we have the right to use that parking lot.

Mike Kobin: That lot was initially supposed to be used for retail.

Gene Steele: Do you have access to that parking area?

Joe Reed: Yes. In light of the fact that there is parking lot that is not being utilized by a retail shop because it is now a warehouse only. A lot of people have requested that we have some small boutique shops here. I would argue that there have been a number of changes and we have to give out some of the changes that we see on this plan. The most important change would be in the real estate market.

Pret Dyer: Bob, where do you think 2B and 2C are?

Bob Kerr: It used to be called Cucumber Drive but now it has a new name. I believe it came down the, I think that is the, north side. It was my understanding that the actual clubhouse was going to come in for a site plan that it was shown as the area it was going to come in but you didn't have real details of whether there was or wasn't going to be a pool at that time. You had some issues that had to be resolved about the actual clubhouse.

Pret Dyer: I was under the impression that the entire area here was 2B and the clubhouse was approved. That was impression that I was under.

Bob Kerr: Part of the reason that I didn't think the clubhouse wasn't approved was that it didn't show a fence around the pool. It showed the pool was there but there is no

mention of fencing or what it was going to look like, as far as I know and how the parking was going to be addressed because if someone wanted to use it for a reception or something where they were having people coming in from outside the community. You could probably use the adjoining parking lot but nothing I know has been presented that you have an agreement in writing with the brewery that says you have the right to use the parking.

Pret Dyer: It was part of our purchase.

Bob Kerr: It may be between you and Pintail that it was worked out but I don't know if that information was ever presented to Planning & Zoning or Town Council.

Joe Reed: There are a couple factors. The first of which, we are doing our best to continue to maintain the pace by which we need to have for Cannery Village. In an effort to do that, we aren't skimping on the clubhouse. We really need to go forward with the construction of the clubhouse. Another factor is that in our purchase with Mr. Draper, we want to abide by that and it requires the construction of the clubhouse within a certain specified period of time. That is another driving factor that we have. I believe this is the first LPD that I've ever done and it is at least unique to any jurisdiction that I'm aware of. If you go back to the original master plan, the original master plan had a series of apartment buildings throughout the master plan which was originally approved for Cannery Village. At what point and at what section does the master plan get amended and how?

John Brady: You were approved under the old zoning ordinance and the original, large parcel development district, and then the town changed it. They changed the zoning ordinances which updated the large parcel development district. So to get ready for tonight, I've looked at two sets of ordinances. I looked at what was originally done and that's why when Robin reviewed with me the plan, I used the word significant as it was more than just a minor amendment to the plan because if you looked there was amendment to the plan once already and this is another amendment to the plan and it sort of like deleting in part what was done before and bringing back part that was originally considered and that's why I said it needed a public hearing because I looked at, there were changes, that you look at the last plan and the last amendments with those changes and that's where I said significant. If it had just been the changing of the road, that may have been minor. But when I looked at the footprint and the other two things and the changing that's why I thought in any use of the words, it would be significant. How I looked at it now and what you said is, in looking at both the original and the new, the constancy was that it's still going to have to go to Council. Their recommendation here still has to go to Council at the next meeting and you're looking at trying to get a building permit. I'm thinking the fastest it could be issued is, this could be put on December 4th Council meeting because this is just enough time to get it put on December 4th Council meeting agenda.

Bob Kerr: I would disagree. This is preliminary, they have to do the engineered drawings and get those approved.

John Brady: For the clubhouse?

Bob Kerr: Well it's changing a property line.

John Brady: I'm looking at a portion of what you have asked for about the permit is, as I look at it, I think you are amending 2B to finalize the clubhouse. In part of that, if there needs to be a fence added around the pool that definitely can be changed to a plan before

it goes in on Dec. 4th and can be a condition of tonight. I also see where you're doing an amendment to what was proposed on 2C and that is also something that is part of this public hearing because of the two phases that was discussed.

Pret Dyer: That would be our request because we really do want to be able to go before Council for the issue of the clubhouse. With the advent of the Dogfish restaurant as something that is at least on the drawing board, what I've heard is we have every intention on doing that. We want the ability to integrate different aspects of this project. In the overall effect we are trying take the concept of the LPD. We are trying to take from what was 3A and 3B and rather than have all of the commercial in that particular aspect and we feel that it is important to draw that into what is already a large parking lot and building and we think that this allows the integrity of this entire 2A and 2B and the industrial portion of this. We want to try to enhance that critical mass.

Joe Reed: And bring some jobs with this office space.

Pret Dyer: Right, that creates some opportunity for the downtown to drive because the people when they come into the office they eat downtown. I do think is going to be a good exchange there and there is a synergy that can be created. From an approval perspective, we think that the Hampton Courts are going to fill the niche that we need to continue with the integrity and magnitude of the investment that we have here.

Carol Bruce: I think one thing that is making tonight's meeting difficult and one thing that would help us all would be if you could make a list of changes you are proposing.

Pret Dyer: I think your point is well made. There has been confusion and I know I'll just tell you on my part, where 2B and 2C, I mean, where this thing fits. The difficulty is the phasing of that has not necessarily coincided with our construction so what was anticipated as to a particular phase is not what ended up occurring. Like right now, we need to build the clubhouse. It doesn't matter what phase it's in, it doesn't matter when it was envisioned, we need to build it now because we have to keep the project, you know, the momentum going. I totally agree with you, when I look at the plan, I was of the very same mind set that you were. That's not a negative reflection on the engineer, it's a reality of this thing has been, as Mr. Brady said, you are not talking about just one little plan here, one little set of zoning ordinances and all that. You've got a master plan here, it's been amended here, I mean, it is complicated.

Mike Kobin: I do want to apologize. My intent was actually to make this simpler. I thought that if we tackled it all at once instead of trying to take the change and you would see everything all at once.

Joe Reed: When we started this project, there were at least 96 apartments if not more. There were 60 single family lots. There are now 277. There are now well over 50 percent single family lots. Hampton Court is not out of character with this area. We have 95,000 square foot industrial room, we have a warehouse, we have an office building. So I do think that it is compatible with the surrounding area.

Carol Bruce: I can see that could be true but everything you are saying is back to this idea of substantive changes. We all need help for you to help us.

Ginny Weeks: Talking about Hampton Court, we don't even have to dimensions on that we don't know the height or anything about it except we can add up 60 units and we can see there are only 60 parking spaces.

Gene Steele: Do you have deeded rights to that parking lot?

Joe Reed: Yes.

Ginny Weeks: So you used that parking lot for the brewery, for all the commercial, for the 60 units and the clubhouse.

Joe Reed: There is a substantial amount of on street parking. The parking for this commercial is not just here. There is a number of pocket parking lots as well as parking along the streets, much like downtown.

Ginny Weeks: That parking there isn't that needed for the commercial area there, and if that is a restaurant isn't that needed twice as much.

Joe Reed: There is no restaurant there.

Ginny Weeks: No if any of the commercial becomes a restaurant you have to double the parking.

Joe Reed: We don't plan on having a restaurant, there is actually a deed restriction against it. The larger lot is 379 spaces.

Ginny Weeks: If this is all one zoning, can we permit condominiums or multi-families?

John Brady: In the LPD, it permits it.

Ginny Weeks: Why do we have LPDs that are R1 and R3?

John Brady: The way that your LPD ordinance was written, it permitted the LPD to trump the individual but to take the elements of what the adjoining had and what it was at the time before it became an LPD. We get the best to what can be pulled out of each of these things to fit into what was designated by the town council to get the large parcel development.

Linda Rogers: I think what the original LPD was for Cannery Village. Their density had to be calculated at an R1 rate. So they were only allowed the number of units that would of been allowed in a R1 District yet they could cluster them, they could duplex them, and they could apartment them. They have some R3 that allows them a higher density.

D.J. Hughes: I kind of sense some people having resistance to town homes and condominiums and that concerns me because anybody that's my age can't afford to buy a single family home. I think we do need condominiums, town homes and single family homes. If we only have single family homes, it's not going to be a good thing.

Linda Rogers: Is there any more questions or comments? If not, we will close this public hearing.

Call meeting to order.

Additions or Corrections to the agenda

John Brady: I'm going to ask, under Shipbuilders that we previously had a presentation on in July. I'm just asking that you put it on the agenda under old business. I just want to make one comment on it.

Approval of the agenda

Dean Sherman: Motion to approve the agenda with the changes.

Gene Steele: Second.

All in favor – "Aye". Opposed – none. Motion carried.

Approval of minutes

Linda Rogers: Anyone have any changes of the minutes? If not, can we have a motion?

Dean Sherman: I make a motion to approve the minutes from September 26th.

Carol Bruce: Second.

All in favor – “Aye”. Opposed – none. Motion carried.

New Business

1. An application from River Basin Engineering for conceptual plan review for the out parcel of Milton Park Center further identified by Sussex County Tax Map and Parcel # 2-35-14.15-68.00 and for the additional building to be located on Parcel 68.01. Proposed use for commercial/retail.

Linda Rogers: Is there anyone present on behalf of this application?

Connie Malmberg: I'm one of the owners of this project. I was here last month and listened to the comments and hopefully have addressed them all. There was concern with the landscaping so Max Spong has brought a landscaping plan. Included with that will be a watering system because we know there has been some concerns that were raised about the survivability of some of the plants. The corner property was consolidated into one building which was requested at the last meeting and a direct drive aisle was done for the retail and the parking lots were aligned. We met with Mr. Kerr and he made several comments or concerns that were also addressed.

Max Spong (Landscape Architectural Services): On Route 5, we would continue the 2' high berm, add canopy trees and an evergreen hedge along there in addition to some clusters of evergreen trees. Along Route 16, there an existing hedge of holly that's already along there and we would preserve that. We would be adding about 12 canopy trees and we are proposing some 3" caliper trees, which are 12-14 feet tall. They do provide shading in the parking areas. We are adding 7 evergreen trees and 100 medium height evergreen scrubs along Route 5 and the entrance to the parking. Additionally we have about 134 low scrubs and ground covers within a lot of the island areas. We are adding an evergreen hedge in front of the proposed retail space. I look at some of the planting that were done about 3 years ago and the majority of them have survived in spite of not having the irrigation system. It looks like the site is being maintained fairly well. It was just recently mulched and things are in pretty good condition.

Gene Steele: You are putting in an irrigation system?

Max Spong: Yes, along Route 16 & Route 5.

Carol Bruce: I don't think you would defend the landscaping that's there now, it may have survived but it hasn't thrived and it's mainly from a lack of water and good work on the part of the people. I like this plan, I like the water, I think it will make a big difference.

Scott Pinder: There were concerns at the last meeting about the parking lot not lining up, it was also suggested that front building restriction line be based off of Route 16 as opposed to Route 5, which we have also made that adjustment. We relocated parking outside that building restriction line and we are providing the required number of parking spaces on both parcel A and parcel B. We are now only proposing one building on parcel B, addressed the loading zone area and added two double dumpster for each proposed retail.

Carol Bruce: The retail store closest to the corner of 16 & 5, is that still proposed to be fast food?

Scott Pinder: It's just proposed retail.

Carol Bruce: It does seem to me that there's not enough parking and I hope that is true.

Scott Pinder: It's proposed retail and that's 1 per every 200 square feet.

Ginny Weeks: Looking at the two roads that go through closest to Happy Harrys, are they proposed to remain two way between the parking? Should they not be one way?

Bob Kerr: They are wide enough for two way traffic.

Richard Greig: The long building that was back against Route 5, we moved it out in order to landscape?

Scott Pinder: I put it out in order to align the parking lot better and to do some landscaping and to provide that dedicated drive aisle.

Richard Greig: I don't recall us discussing moving that building to a different place, we just said we didn't want it there which probably meant we didn't want it.

Carol Bruce: I think we did talk about not wanting it where it was, there doesn't mean we don't want it at all.

Scott Pinder: The square footage proposed in this building was, that square footage is not in addition to what was originally proposed in parcel A which was originally shown in the storm water management area.

Richard Greig: The other building along Route 16, you had two separate buildings there before. We said there was only space for one. How does that one building compare, square footage, to the other two buildings that were there?

Scott Pinder: The square footage is greater but because the use now is only retail, you get more square footage for the amount of available parking on site.

Linda Rogers: You gave us front and side elevations for the long narrow building but no rear elevation and from the parking lot, all you will see is the back of the building. So you are planning to put the front of the building facing Route 5?

Connie Malmberg: Yes.

Linda Rogers: So when you're in the parking lot, the back side of the building is extremely ugly.

Connie Malmberg: We are trying to do basically two front facades. Dumpsters are on the side.

Ginny Weeks: Are you going to require standardized signage on these?

Connie Malmberg: Yes.

Bernice Edwards: Is that long building for one type of retail space or will it be partitioned off?

Connie Malmberg: Multiple partitions.

Bernice Edwards: And the larger building for one?

Connie Malmberg: One maybe two.

Bet Orr: I like this a lot better. I like the berm and the plantings. Will you be able to enter the long building from both sides?

Connie Malmberg: The façade should like the front as much possible from either side.

Ellen Passman: Are you going to do any irrigation on the inside where the scrubs are?

Connie Malmberg: I don't know if it's possible. I can have Mr. Spong look at that.

Marion Jones: Is there any reason for you to wait to get the landscaping done before this building to be put in first?

Connie Malmberg: I figure that it would be done at the same time. The Council or Commission make the issuance of a C/O contingent upon the landscaping being completed.

Ellen Passman: Lighting. Now that there is going to be lights closer to both 5 & 16 which does have some residential. Are there plans to have it a little less glaring?

Scott Pinder: A lighting plan will be prepared and submitted.

D.J. Hughes: Expressed concerns on how customers would enter the stores and how the parking lot was designed.

Barbara Lillian: Will there be a divider or fence around the dumpsters?

Connie Malmberg: These have three sides and a fence.

Richard Greig: Tell me why this traffic flow is safe.

Scott Pinder: We are promoting or demoting folks speeding through this one dedicated drive aisle, there are several stop bars, there is 25 – 29 feet of clearance from the drive aisles. No parking exiting into the drive aisles and everyone must stop before going out into traffic.

Linda Rogers: Are there any more questions about the conceptual plan?

Bob Kerr: When one of the previous phases was approved, I think both the Commission and Mayor and Council questioned why there wasn't curb along 16 & 5, whether you want to see curb installed along 16 & 5. They do have the correct number of parking spaces for parcel B and for parcel A, although they show a future addition for the Food Lion that would require an additional 34 spaces. I don't know what the plans are for that addition but you do realize that there isn't parking, whether you want to consider requiring that the dumpsters have a gate so that all four sides are closed so you don't see the dumpster at all. As part of the lighting plan, whether you want to see, especially for parcel B, possibly timers that a portion of the lights will be shut off at night once the stores close. Along Route 5, here we go with the building restriction line, it's a corner property so it's 15 feet. It looks like you have 15', you are presently showing 10 and it scales as if you have 15. Will you have curb along the primary fire lane in parcel A, what keeps a car from coming out into the fire lane.

Scott Pinder: Yes, there will be a curb there.

Bob Kerr: We talked about the irrigation system, if that could actually be noted on the drawing so that there is no question about what was discussed. We talked about the back of the building having the same finish as the front. That would be nice to have that on the drawing if there is what everyone agrees to. The standard signage was discussed. Part of phase 1 was to require to fence along Road 22B behind Happy Harry's. It was suppose to have a solid wood fence that hasn't been installed. You may want to consider requiring that along the entire property back there to screen it from the road and the adjoining property.

Linda Rogers: If they are short 34 spaces now to add on to the Food Lion, does that mean they can't add on to it, if they do this? Without having to get some kind of variance.

Bob Kerr: They would have to get a variance.

Connie Malmberg: I mentioned extending the curb and gutter along Route 5 and 16. The way I interpreted that comment was to actually extend it along the whole frontage.

Ginny Weeks: Bob, they have enough parking spaces in parcel A as it stands except that some of the parking spaces about 5 or more are used for shopping carts. They have 3

restaurants that require more parking. I just want to make sure that when they come back, how we can pass this without that being a problem.

Bob Kerr: If they come back for the Food Lion, if they want to extend the Food Lion or for any other reason, they would have to first get your approval and the Board of Adjustments approval for a variance for parking.

Linda Rogers: With this long building and what is existing, there is a proper amount of parking on the plan?

Bob Kerr: Yes, we don't have anything in the ordinance that really counts when you review parking spaces to keep shopping carts.

Linda Rogers: We need to make a motion about the conceptual plan.

Ginny Weeks: I move that we accept the conceptual plan with all the requirements that the city engineer delineated and with a good solid drawing of the landscaping that has been composed including the berm, etc. that it all be annotated and come back with a preliminary site plan.

Connie Malmberg: You want fencing along the back and curbing along the side?

Ginny Weeks: Fencing along the back and curbing along the side.

Gene Steele: Totally enclosed the dumpsters.

Ginny Weeks: Can you clean up the dumpsters behind the Food Lion? They are really look bad.

Carol Bruce: I second the motion.

All in favor – "Aye". Opposed - two. Motion carried.

2. An application from James & Nancy White for the rezoning of their property from R1/R3 to R1/R3 with a LPD (Large Parcel Development Overlay) and for preliminary approval of a LPD (Large Parcel Master Plan). The property is located on Atlantic Ave further identified by Sussex County Tax Map and Parcel # 2-35-14.00-132.00, 132.10, 132.02, 132.03.

Ginny Weeks: I have to say that proceeding with the White property and with Cannery Village without having a full report from the engineer makes me uneasy.

Linda Rogers: I thought you had your full report.

Bob Kerr: I don't have a memo, I have just my notes that I can read to you.

Ginny Weeks: To be honest with you, I think we have a lot of learn and I would like to see a work session on these two with the engineer and the attorney and the developer. I would be more than willing to break out the clubhouse if Mr. Dyer needs to get that done today. I think that what was presented to us, at best was confusing.

Linda Rogers: There was a lot of information giving to us in the packets to review. We are certainly entitled to defer action, giving us time to review all the information that was submitted to us and if we have any questions, give them ready. If you are uncomfortable with things, I think that is what I suggest because there was a lot of documentation handed to us tonight.

John Brady: You have to right to defer. You also now looking at time line on one of these, I have a concern. Due to a scheduling problem, I will not be at your December meeting. If you have questions that you need additional information on, this would be the time to do that. Remember, you are making a recommendation to Council. This was the subject of an annexation agreement then there was a little speed bump because there

was a question about something and that's why it was scheduled in front of, the annexation agreement is in place. From what I hear from the discussion by Mrs. Weeks and Madam Chair is that there may be some specific questions that you want answered before you feel comfortable in making a motion to recommend to Council to approve.

Linda Rogers: We are recommending that they approve as a preliminary, correct, when we do it.

John Brady: Well they are asking for it to be a Large Parcel Development and for preliminary approval for a Large Parcel Development.

Linda Rogers: At what point in time, when we did Cannery Village we ended up with hundreds of stipulations and requirements.

Bob Kerr: Now. As part of the recommendation to Mayor and Council is when you put a lot of the specifics in the site notes.

Linda Rogers: How long do we have before we have to recommend?

Ginny Weeks: Even on the first stage, the number of units or different kind of units has changed. It's a minor change but it's a change.

John Brady: Do you want to do it at a special meeting next month where it's just dealing with the White property and perhaps another item that you put on, maybe a week earlier when I am still in town?

Carol Bruce: That sounds good to me.

John Brady: That's actually the twelfth of December. The second issue is I asked you to add on new business is Shipbuilders Village. There has been a presentation to you, there has been litigation, and I have arranged to get all the people here on the 19th to present that and Mr. Willard, to bring him back from where he is now as town attorney for Milford because he is involved in the litigation. I've listened and read the minutes, started to listen to the tapes, started to look at everything and I'm still confused. So that's why I want to bring Mr. Willard back because he's involved with that litigation and he knows that to have all those parties in front with proper notice to everybody in the community so we can it resolved once and for all on December 19th.

Gene Steele: I thought you wouldn't be here on the 19th?

John Brady: I won't be here, Mr. Willard will. He's the one who handled it before, he knows the litigation. The town never authorized me step in and replace him in the litigation.

Carol Bruce: So the suggestion would be to have one in December 12th and another regular meeting on December 19th, so we would have an attorney present at those?

John Brady: Right, at both.

John Brady: How many applications do we have pending for the 19th?

Robin Davis: Nothing for December so far.

Bob Kerr: Specifically they come in the last week of the month.

John Brady: For purpose of you wanting to review the items of the Large Parcel Development that if you wanted to defer it until a special meeting on December 12th and then we can get your concerns and they can be addressed by that point. If they have questions if they can be forwarded to Robin and he can notify the appropriate people so the conditions can be reviewed.

Mark Davidson: I just don't understand, it seems to me that we had four or five people that could of answered any questions you had, I don't know what stone you left unturned. Cannery Village is confusing. I can see how you can be confused with all those old maps

and different maps and there was a better way to do that. As a clubhouse we were asking for that as somewhat of a favor. You'd be getting us back again as it is.

John Brady: Under 4.88 when it goes to the LPD the recommendation is immediately then returned to planning and zoning for preliminary cycling.

Linda Rogers: We are recommending for it to be an LPD. Then it comes back for the review of the master plan and that's when we put all the notes it?

Bob Kerr: Before the notes were presented to Mayor and Council, for Mayor and Council to approve as part of the preliminary because one.

Linda Rogers: What I'm saying is that this is going to go saying yes we want it to be an LPD just like we would want it to be an R1, R3 or whatever.

Bob Kerr: With the following conditions. Once Mayor and Council have your recommendations they can add conditions then they give their approval which is to the preliminary. Mayor and Council do not see the final master plan. They only send the preliminary back to you with the conditions that Planning and Zoning is to make sure it happens before it gets recorded.

John Brady: It is under 4.8.7, it says an applicant for an LPD district shall submit a master plan to the Milton Planning and Zoning Commission and The Town of Milton Town Council for approval. This plan shall include the following and they were the eleven items that they went over. When I said the red sheet, they broke out in red the definitions for those eleven items.

Ginny Weeks: The one thing I'm concerned about here is that is asked Mr. Dyer what is different that he's applying for that we should be aware of before we approve the plan here.

John Brady: In an R1 the maximum height is 30 1/2. In an R3 it's 40. Part of the parcel is R1-part of the parcel is R3. So the L1 or L3 doesn't apply except the town shall insure the appropriate relationship between proposed land use and existing land use near the boundaries of the proposed LPD district. If part of the area is already in R3 and part of the area is R1 then they are asking that all of it have a maximum of 40' and that it permitted as part of the LPD application.

Ginny Weeks: Is it automatically approved?

John Brady: If you say no we are going to make it 30 then that is the recommendation you make to Council. They have the right and council has the right to change that in their review when it is forwarded at the next town meeting. When you recommend to Council, the Council can accept, reject, or accept with modifications.

Ginny Weeks: And that is exactly where I perceive a problem in the fact that we don't know what he is applying for that is different from the normal zoning.

John Brady: The difference between R1 and R3 height requirements is R1 is 30 1/2 and the R3 is 40. Minimum lot square feet is your LPD minimum requirements for a single-family are 40 feet. My initial concern was under multi-family because I first looked at townhouses. Townhouses have the minimum square feet of 2500, but as part of the presentation they said condominiums. Condominiums do not have minimum square feet under R1 or R3. So what they're proposing is permitted under both. So that is not something I'm saying that it violates. My only concern is reading this and looking at it under the LPD minimum requirements under 4.8.13 is minimum lot and width from page forty-one. It says the minimum lot area and minimum lot width of a detached single

family shall be not less than five thousand square feet or less than fifty feet. This has the proper amount of square feet at five thousand but this says forty. Is that a typo?

Mark Davidson: We meant forty. That is what we have at Cannery Village.

Bob Kerr: No, 50. I don't believe there any 40 foot wide single family detached homes.

John Brady: My concern is 4.8.13 is not one that appears to be suspend able.

Bob Kerr: Not only that but you have several lots that are single family that maybe only have fifteen feet of road frontage.

Ginny Weeks: These are the things we need to know before I vote on the White property.

John Brady: The minimum lot area and width is not something that is suspend able. There are certain things that can be suspended and they are under the alternate development standards, and those are those factors which Mr. Dyer did go over, including landscaping and buffering, public safety, site access, light and shadow, number signs and location of signs, nuisance irritants, and architectural design, the unique characteristics of the subject property, characteristics of the proposed use, the arrangements of buildings, visual impact, the public improvements, preservation of natural features of the property and the public benefit derived. In his presentation, he covered all of those; however, reading everything and using the Latin term "impairing material", which means trying to make all of this consistent is the only concern I have, specifically, I see under 4.8.13 it has to be not less than fifty feet. That is the concern of the presentation. It is your decision whether or not you wish to use R1 or R3. If you're asking me, can they make that request to have a 40' height and the answer is yes. Under the LPD, that's what they presented.

Ginny Weeks: We don't have those requests in writing and if we do we just got them tonight. We haven't been able to review them, and that's why I would like to see the engineer's report which is what he does before we vote on this.

Mark Davidson: This is just like one meeting...we come back before you again, and then we go to the council, we come back before you, we go back to the council...

Ginny Weeks: When we pass the preliminary master planning, it goes to the council for them to review and to include some things on it, but we also are supposed to send our recommendations and I don't even know what to tell the council. I don't know that there are some lots that have only 2 feet for the frontage. That's the engineer's....

Linda Rogers: But is that something that's actually reviewed at this point?

John Brady: Fifteen feet of frontage existed. The answer to the question is you're not approving Page S4 at this point as to the final concept. This is somewhat like us going back to the three-part process we do for conceptual plan and then preliminary plan, and then final plan, I did not write the LPD statute. I am just interpreting it as best as I can. I think the LPD recommendation is like a conceptual site plan, saying, globally this is what we'd like to do. But you are correct in saying this is an opportunity to put conditions on it. If you're asking if there is sufficient basis, there's a sufficient record to do a recommendation to council, if you should so consider. There's also cause to make a motion and second, to table it until another meeting, and if the majority of the Planning & Zoning Commissioners decide to do that, then that is what happens. Basically, this is where Madam Chair asks for motion.

Linda Rogers: First, I still want to get clear on one thing. This is a concept, so when it goes to council with any recommendation and comes back to us, we still can add conditions or whatever at that point in time, even if the council decides on other

conditions, then we do all the necessary conditions as a preliminary. It took Cannery Village a long time to make their decisions on their conditions....for instance, they came in with full wrap, partial wrap, no porches, porches,

Bob Kerr: That's done during the preliminary subdivision part. The type of conditions that you put on now, and Cannery Village has one that hasn't been discussed, Heritage Creek did not have it, Cannery Village offered the first at their preliminary master plan to limit the number of units to 100 per year. They offered it and you accepted. Heritage Creek didn't make that offer. But it's those things that I'm not sure you can put on further down the road than this. For example: the number of units is 370, or 373 with the out-parcel for the future, and Cannery Village and Heritage Creek have a tentative breakdown of how that will be configured as to how many single family, attached or detached, that when you get to the subdivision, I don't believe you as the Commission can change the number. You can't make that change; the applicants can request reasonable changes. Just as we had in the preliminary site plan where we missed things that we wanted and I don't know that has happened lately. But I know when Tim was here, he'd say if you didn't have a condition on the preliminary, you can't put it on a final site plan. So, that's how I think about the master plan, that you can't really add conditions to the ...

Linda Rogers: But we can add them between the conceptual and when they come for preliminary.

Bob Kerr: The type of things that are site plans, but not the type of things that are, the number of lots, etc. This talks about the paving widths. I think they're more or less locked in as part of the plan unless you specifically exclude them. If it's part of the this set of drawings, and cross sections of the roads are, and you recommend approval of this set, then you've locked yourself in to the paving which they show, that aren't the same as the town standard. They are similar, if not the same to what Cannery Village has, but they're not the same as what Heritage Creek has. One of the questions I was going to ask is, "Have you driven through Cannery Village, and do you like the street width, do you like the curb cutouts?" I've always been concerned that emergency equipment's going to have trouble getting through Cannery Village and I see some of the types of conditions here. You elected to go with Cannery Village the way it is and if you want to continue that format, then there's no problem going forward with this.

Ginny Weeks: Are they not also required to give us proposed street-lighting.

Bob Kerr: No, not at a...

Ginny Weeks: The applicant of the LPD shows they made a master plan to The Milton Planning & Zoning and the Town Council, and the plans shall include the following: Proposed street lighting, signage, open space, recreation facilities, proposed landscaping. We don't have any of that in writing.

Mark Davidson: Yes, I know you just got that tonight. All those things are mentioned in there, but I apologize for not having that before.

Ginny Weeks: And we don't have the breakout of the things that he's applying for.

Carol Bruce: It does seem that these are all reasons to try to meet on December 12, 2006 and I would like to see what was suggested before which is as much as possible for the developer to give Robin a list of changes being asked for to try to facilitate our getting through the complications of planning and zoning. A list would make it easier to compare a prior map with a present one....I think with that and Bob, with your notes, we'd have something to guide us.

Ginny Weeks: If we do delay it, I would like to ask the City Engineer to get his written comments to us at least a week before the meeting.

Linda Rogers: Would like to make a motion?

Carol Bruce: I would like to move that we try to meet again on December 12, 2006.

D.J. Hughes: I'm just asking if it seems like the things you're talking about are meeting code. Before this gets approved, it's going to have to meet the code, the conditions that the Council would put on it, and they're not going to put conditions that say, "Please meet the code." That's part of it anyway. It sounded as if we were talking about conditions like "x" number of units per year, or maybe some living things here or there...but before it gets approved it's still going to have to meet code. It seems that can be dealt with through the normal process instead of having a special meeting just to make sure it meets the code.

Ginny Weeks: I don't want to approve this matter until the city engineer tells me it meets the code.

Linda Rogers: Well a concept plan for an LPD doesn't necessarily have to meet the code. This isn't a preliminary.

John Brady: It's under the LPD master plan, under the large parcel development district, your job is to review the plan under the 4.8.7, "the conformity of the proposed development with the standards of the Milton comprehensive plan and recognize principles of land use planning and landscape architecture. The minimum lot and yard requirements and maximum height requirements of the zoning district in which the LPD is located need not apply except that the town shall insure an appropriate relationship between proposed land uses and existing land uses near the boundary of the proposed LPD district. The Planning & Zoning Commission and the Town Council may impose conditions regarding the layout and design of the proposed development to assure compliance with the development plan presented by the applicant." That's your duty under 4.8.7 if you choose to recommend it to council tonight.

Ginny Weeks: Madame Chairman, I believe the agenda says this is preliminary approval of the LPD master plan; it is not conceptual.

Linda Rogers: Mr. Brady, I don't think it's still clear what we're doing, if she thinks we're approving it as a preliminary because that's what the agenda says.

Bob Kerr: There is no concept plan for a master plan. There's preliminary....

Linda Rogers: And then it comes back again for another preliminary; he's telling me, we have three shots at it....

John Brady: It comes back to council "after a preliminary master plan is approved by the Town of Milton Council, it shall be returned to Milton Planning & Zoning Commission pending preparation of the final master plan. The final master plan, incorporating all the requirements, amendments and conditions of the Town of Milton Council, shall be reviewed by Milton Planning & Zoning Commission and shall be placed on the record after such approval."

Linda Rogers: But the difference would be when it comes back to us again, we can still add conditions.

Bob Kerr: It's coming back in multiple steps. The next time it comes back to you is for final master plan approval. And that is taking what Mayor and Council approve and making sure that it's done, that all the notes that you want to see on the drawings, all the conditions are on the drawings, and it gets recorded. That's the end of the master plan.

Then the engineer will develop a preliminary site plan, which is what you looked at tonight for Cannery Village Phase 2C. The master plan's done. Now they can choose to come in and do the entire site as one preliminary plan, or Mr. Dyer said they may construct in phases, or they may also, as with Heritage Creek, just do a phase right in the center. And, yes, and that's when you get into the very specifics of what gets done. But a lot of what you're doing tonight is done at that point....that being what the setbacks are. That is something that you get to decide...what the setbacks are going to be or what number of lots, or those types of conditions.

Linda Rogers: Are here or there?

Bob Kerr: Tonight. Later on, the setbacks are already established.

John Brady: Now, there is another thing under 4.86. The specific thing that was noticed on your agenda is actually two separate things: You can do it as one, or under 4.86 you can be processed concurrently with separate applications for establishment. They asked for rezoning of their property from R1/R3 to R1/R3 with an LPD overlay. That has to be approved by Council on your recommendation. The second part of it is: They've asked for the preliminary approval of the master plan.

Linda Rogers: So they've asked for two things.

John Brady: Technically, they've asked for two things tonight. And you can run them concurrently or you can separate them.

Ginny Weeks: If we approve the master plan tonight, are we approving this map?

John Brady: If you approve their request for R1/R3 zoning with LPD (Large Parcel Development Overlay), which is separate. If you approve the preliminary master plan, you're approving that map tonight.

Linda Rogers: So let's entertain a motion.

Ginny Weeks: I make a motion that we approve the R1/R3 zoning with the LPD overlay.

Michael Filicko: I second that.

All in favor – “Aye”. Opposed – none. Motion carried.

Linda Rogers: We're going to forward that as a recommendation to Council.

John Brady: The second part of this is they've also asked for preliminary approval of the Large Parcel Development master plan.

Ginny Weeks: I make a motion that we table that until the meeting of December 12 and that at least one week before that, we get a written report from the city engineer after he reviews the maps, etc.

Linda Rogers: We have a motion to defer action until December 12.

Louise Frey: Second.

Carol Bruce: Can we add here that we would like to see list of changes requested from the developer.

Linda Rogers: We have a motion and a second.

All in favor – “Aye”. Opposed – none. Motion carried.

3. The application of Chestnut Properties for preliminary site plan approval of Cannery Village Phase 2C and revising the approved site plan for Cannery Village Phase 2b. The property is identified by Sussex County Tax Map and Parcel # 2-35-20.00-57.00.

John Brady: Madam Chair, just to clarify, maybe this will help. Toward the end of the public hearing, the applicant requested that you perhaps consider separately under 2, the revising the approved site plan for Cannery Village Phase 2B under 4.8.8 amending the approved record master plan to permit the establishment of the clubhouse with the pool, with the final details about the fence around the pool to be in the final plan, but to approve the preliminary design of the clubhouse so that recommendation can go to Town Council at the December 4th meeting as I understand the amended request of the applicant. Am I correct on that?

Mark Davidson: Yes sir.

Ginny Weeks: In order to do that, wouldn't we also have to recommend realignment of the street?

Bob Kerr: Yes, and property lines, because the property line dividing the condominium area and the clubhouse changes.

Mark Davidson: Actually, the clubhouse is where it always was, it's just that it reoriented because of the street change, so it is slightly...

Robin Davis: Yes, we had to slide it up somewhat because it wouldn't fit; we just turned it...I think it had to be kicked toward the condos.

Ginny Weeks: Can we do just that part of it, and not approve the other changes.

John Brady: They've broken it into two parts. They asked for preliminary site plan approval for parcel 2C. You could defer that until the special meeting on December 12.

Ginny Weeks: Nobody knows what parcel 2C really is.

John Brady: I believe if they are asking if the other part be recommended to Town Council for consideration at the Dec. 4th meeting so they can get a building permit and start the building process as soon as possible.

Ginny Weeks: Yes, the Part B, the reconfiguration of the street and the clubhouse and nothing more.

John Brady: Am I missing something, is it the reconfiguration of the street and adjustment....when I say the property line, it looks like it's...

Bob Kerr: Well, the right of way of the street is the property line and the property line in this area changes.

Mike Kobin: I do want clarify one thing: We met separately with Robin and went through the changes that were occurring there, and the other thing I would suggest to you is that what you see there is different from what was shown to you on an earlier site plan, it is in character with the original master plan.

Dean Sherman: I kind of agree with that...whether it's 2B or 2C, it's just a technicality and the change of the building is still in character with the neighborhood. There doesn't appear to be any type of downgrade or deviation from the community. And, the ball's in play...what would we be smarter to do...enforce a unit that wouldn't sell or wouldn't be built because it wouldn't sell, or support an ongoing project because the market will balance itself. If it is believed that there is need in the market for that unit, it's in character with the community and the master plans of its origin three, four years ago. I'm not sure we're not wasting some more time debating policy on this issue. All of the modifications and deviations have been in the interest of supporting the project and to keep it going. The market has turned 180 degrees since the company's conceptual master plan. I'm not sure what purpose will be served to tie the second part of this up in logistics.

Ginny Weeks: I'm not ready to have preliminary approval which will allow that the map that we were presented to become the official map without it being reviewed and written comments given to us by the city engineer. I think that's the least we can expect because if we approved it tonight, that map becomes "the map." And as we've already heard, there may be a problem with the lot line infringing on somebody's property within the site...and I would just like the city engineer review the map and give us a written report of what the changes are, and if they are meeting the code, and let us know.

Mike Kobin: Mr. Kerr does have an opportunity to address these things during his review of the engineering plan.

Bob Kerr: Many of the things that may have come up are things that would be established this evening.

Michael Filicko: Is there any way that we can approve the clubhouse?

Dean Sherman: I think we should at least approve the clubhouse, because it's not even moved.

Bob Kerr: Yes, it has moved.

Dean Sherman: Well, someone made the statement earlier that it's not moved.

Linda Rogers: It's shifted.

Mike Kobin: It's a different orientation now.

Bob Kerr: It is not in the physical location that it was before.

Ginny Weeks: There's a lot less open space around it.

Gene Steele: I have a problem with the statement that they won't rent it out or it won't be used for a wedding or something like that, I want to know what the occupancy and how much adequate parking is going to be needed for that building. We don't even have square footage of it.

Mike Kobin: I think 8000 square feet.

Gene Steele: What is the occupancy? If it is rented out, there's not adequate parking.

Mark Davidson: They need a variance to rent it out. It's not going to be open to the public...it's just strictly for the homeowners in that development.

Dean Sherman: That'll all come down from the Fire Marshall regulations as to the occupancy part.

Louise Frey: What about the parking part? If they do rent it out or someone in the development has a need...

Dean Sherman: You can be as hypothetical as you like, but once it's built, decisions are made, we'll be lucky if we even know about it.

Ginny Weeks: We should know about it before we approve the map.

Dean Sherman: What's there to know about?

Ginny Weeks: Whatever the city engineer tells us.

Linda Rogers: Would someone like to make some type of motion or we're going to get nowhere.

John Brady: The way the application was done, they asked for a preliminary site plan approval for Cannery Village Phase 2C, and revising the approved site plan for 2B: the clubhouse, the roadway, and the property line of the 2B revision that they're asking for, the amendment under the 4.8.8, where, when Robin called me, I thought it was a significant order of provision, because it changed it from where it was before and it was more than just when you change a road and an orientation, and you move things around...and then I also said the second part of it was because of the changing of the

previous time. Originally, they had the allocations of the units differently. That's why I said they needed a public hearing on the two parts of the application. If you want to address just the 2B issue tonight, you can. You can defer the 2C issue. That is what I believe the applicant asked at the end of the public hearing.

Ginny Weeks: And it is agreed that 2B is just the clubhouse, and the road alignment.

John Brady: 2B is the clubhouse, the road alignment, and the property line.

Mike Kobin: Technically, it was a duplex lot.

Bob Kerr: These four condominium buildings were in 2B. Whether they could be pulled out to be completed in C, I'm not sure.

John Brady: Technically the way that page C 1.3 reads, in 2B, are the four Hampton Court Buildings.

Linda Rogers: Can we make a motion to approve the site plan or recommend the changes or whatever it is we're doing, for the street changes and the clubhouse, and made that a motion, and then a motion to defer any action on the townhouses or whatever, and forget the phases because they're all over top of each other anyway.

Michael Filicko: I would like to do what Linda just suggested.

Ginny Weeks: The rush on tonight is so they can build a pool, right?

John Brady: No, they're asking because they wanted to start work on the clubhouse.

Michael Filicko: I don't see why we cannot approve that.

John Brady: You can amend if I'm doing this right, and I think the Town engineer can tell me if I've misstated it, if you're amending the current record master plan from the motion that sounds like you're asking to be made to amend the record plan for Phase 2B to permit the realignment of the road, the adjustment of the property line, and the construction of a clubhouse in parcel 2.35-20.00-57.00 and defer action on the Hampton Court portion of that phase until a later time.

Ginny Weeks: May I ask one question of the city engineer? Where is the map that's going to reference this?

Bob Kerr: It's basically C.1 of C 1.3, but a record plan drawing will have to be prepared to be presented to Mayor and Council for their actions. This drawing will not go to Mayor and Council.

Ginny Weeks: We are not approving any of these drawings tonight.

John Brady: Your motion would be subject to the submission a revised record plan to reflect what exactly you passed so as to be clearly delineated for Mayor and Council to approve your recommendations at the December 4, 2006 meeting.

Bob Kerr: As for the final site plan for the pool as far as the fencing, accessories will be handled after the fact. The foundation plan can be started so you can start the structure itself.

Louise Frey: Does anyone have a drawing of that building that he...

Mike Kobin: No, he took it with him.

Louise Frey: Well, we would like to have that.

Mike Kobin: You have one in City Hall.

Bob Kerr: On sheet C 1.3 is the first floor plan of the building from what was described during the public hearing.

Michael Filicko: Mr. Brady, I don't know how to make a motion to approve what you just said.

John Brady: To approve the amendments to Phase 2B, by revising the previously approved site plan to permit the clubhouse and pool, the realignment of Furham Drive and the intersection of Furham Drive and Village Center Boulevard, the alignment of the property line between the clubhouse and the duplex units, submit a new plan for the record. Defer action on the Hampton Court units.

Richard Greig: Second.

All in favor – “Aye”. Opposed – none. Motion carried.

Carol Bruce: I make a motion to defer action for preliminary site plan approval for Phase 2C until we get more clarification on what type of changes they want to make i.e. building heights, units and the location of Phase 2B and Phase 2C.

Michael Filicko: Second.

All in favor – “Aye”. Opposed – none. Motion carried.

Other Business

1. Discussion on meeting procedures

The commission deferred action and moved discussion to a later meeting.

Adjournment